July 26, 2018

Alex Azar, Secretary of Health and Human Services
Attention: Family Planning
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 716G
200 Independence Avenue SW
Washington, DC 20201

Valerie Huber, Senior Policy Advisor, Assistant Secretary for Health
Attention: Family Planning
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 716G
200 Independence Avenue SW
Washington, DC 20201

Diane Foley, Deputy Assistant Secretary for Population Affairs
Office of the Assistant Secretary for Health, Office of Population Affairs
Attention: Family Planning
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 716G
200 Independence Avenue SW
Washington, DC 20201

RE: HHS–OS–2018–0008, Proposed Rule for Compliance with Statutory Program Integrity Requirements

Dear Secretary Azar, Senior Advisor Huber, and Deputy Assistant Secretary Foley:

The American Academy of Nursing (the Academy) submits these comments\(^1\) in response to the Department of Health and Human Services’ (the Department’s) proposed rule entitled Compliance with Statutory Program Integrity Requirements, which was published in the Federal Register on June 1, 2018.\(^2\) The proposed rule would significantly and detrimentally alter the Title X Family Planning Program (Title X), the only federal program exclusively dedicated to providing low-income patients (including adolescents) with access to family planning and preventive health services and information, including health and cancer screenings, well woman exams, contraception and testing and treatment for sexually transmitted infections.

\(^1\) Comments prepared by the Academy’s Women’s Health Expert Panel (Diana Taylor, chair)

The American Academy of Nursing (the “Academy”) serves the public and the nursing profession by advancing health policy, practice, and science through organizational excellence and effective nursing leadership. The Academy influences the development and implementation of policy that improves the health of populations and achieves health equity including advancing policies that improve ethical and evidence-based standards of care and women’s access to safe, quality sexual/reproductive health care without interference with the patient-provider relationship. Specifically related to our comments on the proposed changes to Title X regulations, the Academy is on record supporting evidence-based policies that 1) ensure that all people have full access to affordable, sexual and reproductive health services, 2) facilitate expansion of clinical knowledge and evidence-based women’s preventive health services especially related to preventing unintended pregnancies, and 3) assure that all women’s health care, including reproductive health services, is grounded in scientific knowledge and evidence-based policies and standards of care.

Nurses are the most trusted professionals in the United States, and we have an ethical and moral responsibility to maintain this trust. Trust requires that health care providers give patients complete and accurate information about their health care so that patients can make meaningful, informed decisions about their own health. For nearly two decades, the Title X law has been clear—health care providers cannot withhold information from patients about their pregnancy options. The Academy strongly opposes these proposed changes to the Title X program and urges rescission of the proposed rules.

The proposed rules targets qualified health care providers and restricts access to medically accurate preventive health services

The proposed HHS/Title X rule further restricts state governments to apportion Title X funds based on a provider’s ability to perform SRH services effectively and discriminates against certain “focused reproductive health providers” (e.g., Planned Parenthood) that have demonstrated successful outcomes in reducing unintended pregnancy, improving sexual and reproductive health (SRH) care, and providing essential preventive services. The proposed rule conflicts with established Medicaid/Medicare criteria for qualified providers based on professional and facility scope of practice and licensing.

Title X providers offer a broader range of SRH services (e.g., long-acting contraceptives such as IUDs, HPV vaccinations, preconception services) compared to primary care providers (community health centers (CHCs) or federally qualified health centers (FQHCs)) as evidenced by the HHS/Title X analysis of observational and experimentation data. With a loss of Planned

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7 Sexual and reproductive health (SRH) care has been defined to broaden the focus on family planning or maternal-child health. To produce optimal health outcomes, many experts believe SRH care should include the reproductive health of men and women throughout their lifespan and adolescents of both sexes with a focus on social determinants of health and health equity. Under this definition, a minimum package of SRH care accessible to all would include preconception care, contraception, pregnancy and unplanned pregnancy care, women’s health/common gynecology care, genitourinary conditions of men, assessment of specialty gynecology problems including infertility, sexual health promotion, and coordination with public health and primary care services (WHO, 2011).
Parenthood (PP) health centers, which serve about one-third of the Title X patients (2 million individuals) across the country, empirical evidence indicates a decline in the use of the most effective methods of birth control and an increase in births among the women who previously used long-acting reversible contraception (Stevenson et al. 2016). Comprehensive primary care providers from CHCs and FQHCs (who care for the millions of the most poor and vulnerable) rely on PP health centers to expand their SRH services since for every patient served by CHCs today, nearly three residents of low-income communities remain without access to primary health care.

Recent reports from HHS clearly outline the evidence indicating that restricting specific providers of Title X services has harmful effects on access to gender-sensitive SRH services (e.g., pregnancy diagnosis/counseling, contraceptive services, basic infertility services, STD screening, and preconception health care) and is linked with increased pregnancy rates that differ substantially from rates of unaffected populations. Such restrictions also impact the education and training of health professionals and front-line health workers that provide these services since focused SRH providers serve as clinical training sites for medical and nursing students.

Nurses (primarily nurse practitioners, nurse midwives and public health nurses) have been the mainstay of SRH care in both community health clinics and Title X clinics and are crucial providers for vulnerable, low-income and ethnic populations. Nurse practitioners (NPs) comprise about 75% of clinicians employed by PP affiliates. With closures of PP health centers, the lack of clinical training sites for NP students (and other health professionals) who will provide SRH services results in a workforce that varies widely in SRH exposure, knowledge, and clinical skill and reduces the pipeline of trained frontline clinicians.

Planned Parenthood health centers are often located in communities where there is little to no access to health care, especially reproductive health care that offers a broad range of services. In fact, Title X services provided by PP health centers frequently serve as the sole health care source for underinsured, uninsured and low-income women in these communities. Without ease of access to the most effective contraception methods available, the incidence of unintended pregnancies increases significantly (statistic is referenced in previous DHHS reports), and at a time when prematurity is on the rise along with the potential for additional global epidemics affecting maternal and fetal health is of particular concern, ease of access to contraception should be increased rather than barriers created.

The proposed rule would force providers to violate professional ethics and harms the patient-provider relationship.

High-quality health care is founded on complete, accurate, and unbiased information and relies on a relationship of the utmost trust between a patient and their health care professional. Currently, consistent with the highest professional and ethical standards of care, Title X-funded providers must offer pregnant patients counseling on and referrals for all of their options, including adoption, prenatal care, and abortion. However, the proposed rule would inject politics and ideology into the examination room by prohibiting providers from giving patients information on how and where to access abortion. This restriction would undermine the health professional’s ethical obligations and hinder open and honest conversations between patients and their providers.

As the most “honest and ethical” profession, nurses guard against any erosive policy that hinders patients from making meaningful, informed decisions about their own health, or that blocks access to care. The Code of Ethics for Nurses outlines that the nurse’s primary commitment is to the patient, whether an individual, family, group, community, or population. This proposed rule interferes with that relationship and violates basic ethics of the profession.

In addition, the Code of Ethics for Nurses stipulates that patients have the right “to be given accurate, complete, and understandable information in a manner that facilitates an informed decision,” and the American Nurses Association’s position is that health care providers must “share with the client all relevant information about health choices that are legal and to support that client regardless of the decision the client makes.”

These ethical obligations recognize that a patient’s informed consent and access to medically appropriate care is dependent upon both having all treatment options presented and referrals to appropriate providers. In short, the proposed rule places Title X providers in a situation whereby they would have to violate their professional ethics in order to participate in Title X, which is an untenable position for any health care provider.

The proposed rule undermines the decades long successes of the Title X program and the HHS goals and past efforts

In 1999, the Centers for Disease Control and Prevention (CDC)—an HHS division—declared family planning as one of the 10 greatest public health achievements of the twentieth century. In a

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2009 review of the HHS Family Planning Program, an Institute of Medicine review panel\(^1\) reported the role and history of family planning policies and programs in the United States: The provision of family planning services has important benefits for the health and well-being of individuals, families, communities, and the nation as a whole. Planning for families—helping people have children when they want to and avoid conception when they do not—is a critical social and public health goal. The federal government has a responsibility to support the attainment of this goal. There is an ongoing need for public investment in family planning services, particularly for those who are low income or experience other barriers to care.

The federal government’s continuing recognition of the contribution of family planning and reproductive health to the public well-being is evidenced by their inclusion in the nation’s top health priorities as outlined in the HHS Strategic Plan and Healthy People 2010. A 2015 report of federally funded family planning programs demonstrated that Title X–supported services alone helped women to avoid more than 822,000 unintended pregnancies (out of 1.3 million unintended pregnancies avoided by all safety-net family planning centers), thus preventing 278,000 abortions (out of 453,400 abortions avoided by safety-net family planning centers overall).\(^2\) Along with yielding important public health benefits, every public dollar invested in Title X saves $7.\(^3\) In spite of this history of successful public health outcomes supported by decades of evidence, current government policy and regulatory proposals will deal a devastating blow to safety-net family planning providers and the communities who rely on them.

The nation’s 4 million nurses are deeply committed to ensuring that all people have access to affordable health care, including preventive services as intended by the Affordable Care Act and the Title X programs. Nurses know and understand the importance of women having seamless and comprehensive reproductive health care to protect their health and ability to work, both of which are essential for the economic security of families across America.\(^4\) Specifically, the American Academy of Nursing is opposed to the following changes in the Title X program:

- Imposes new rules that are designed to make it impossible for millions of patients to get birth control or preventive care from reproductive health care providers like Planned Parenthood.
- Restricts doctors, nurses, hospitals, and community health centers who could no longer refer their patients for safe, legal abortion.
- Removes the guarantee that people get full and accurate information about health care from their health care providers.
- Creates a new policy stipulating that Title X projects do not have to provide every effective and acceptable method of birth control. This is a sharp departure from the way the program has been operating, where HHS put an emphasis on ensuring women have access to all 18 FDA-approved contraceptive methods.


• Allows women to receive family planning services under the Title X program if their employer refuses to cover contraceptive care based on religious or moral objections, regardless of their income. Redefining “low income” to include this population will divert scarce resources away from serving the low-income patients at the heart of Title X’s purpose.

Final Statements

As the nation’s health policy center, the Department of Health and Human Services (HHS) policies and activities must be firmly based on scientifically valid and appropriate terms and evidence. Instead, the Department makes several false and misleading statements in these proposed rules to undermine the Title X program. Furthermore, these rules prioritize ideology over evidence-based professional recommendations and the government’s own independent evaluations.

The proposed Title X rules undermine the decades long successes of the Title X program and HHS goals by eroding access to sexual and reproductive health care and individual freedom to make reproductive health decisions. The Academy unequivocally opposes the Departments’ effort to undermine the Title X program. We urge HHS to remain religiously and morally neutral in its funding, policies, and activities to ensure that individuals receive do not receive a limited scope of services and that the ethical obligations of healthcare providers are not compromised.

We stand in opposition to the proposed rule and any other policy proposals that interfere with the patient-provider relationship, violate professional ethics, and limit access to high-quality, affordable family planning care under the Title X program.

Sincerely,

Karen S. Cox
President
American Academy of Nursing